UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,587	11/24/2003	Donna K. Hodges	BS030353	5018

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EXAMINER
SIKRI, ANISH

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/720,587	HODGES ET AL.
	Examiner	Art Unit	
	Anish Sikri	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 May 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>24 November 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>03/08/2004</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 03/08/04 been considered by

the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
>
> or described as set forth in section 102 of this title, if the differences between the
>
> subject matter sought to be patented and the prior art are such that the subject
>
> matter as a whole would have been obvious at the time the invention was made
>
> to a person having ordinary skill in the art to which said subject matter pertains.
>
> Patentability shall not be negatived by the manner in which the invention was
>
> made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating

obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims **1-7, 10, 12-20** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kaplan et al (US Patent 6,016,307), in view of Codella et al (US Pub

2004/0221053), in view of Redlich et al (US Pub 2003/0051054).

Consider **Claim 1**, Kaplan et al discloses a method of providing communication

services, comprising: receiving a request for communications service (Kaplan et al, Col

2, Lines 64-67, Col 3 Lines 1-3), the request for communications service originating

from a client communications device associated with a user, the request for

communications service requesting communications service from a service provider

(Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3); dynamically assessing in real-time

an availability of a i) communications network operated by the service provider (Kaplan

et al, Col 5, Lines 60-67), the best-value scenario maximizing profitability for the service

provider (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49); and

providing the communications service to fulfill the request, the communications service

provided according to the best-value scenario (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49).

Kaplan et al fails to disclose another communications network operated by another service provider.

Nonetheless, Codella et al, discloses another communications network operated by another service provider (Codella et al, Page 4-5, [0047]).

Kaplan et al fails to disclose the segmentation, dispersion, assemblage, and routing of electronic data to fulfill the request.

Nonetheless, Redlich et al discloses the segmentation, dispersion, assemblage, and routing of electronic data to fulfill the request (Redlich et al, Page 22, [0191], [0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, and method of incorporating segmentation, dispersion, assemblage of electronic data, taught by Redlich et al, in the system of Kaplan et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 2,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the method according to claim 1, further comprising interrogating to determine when the another service provider can provide the request communications service.

Nonetheless, Codella et al discloses interrogating to determine when the another service provider can provide the request communications service (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 3,** Kaplan et al, as modified by Codella et al, and Redlich et al discloses the method according to claim 1, further comprising assessing in real-time an availability of network routing (Kaplan et al, Col 5, Lines 60-67)

But Kaplan et al fails to disclose the another communications network operated by the another service provider.

Nonetheless, Codella et al discloses the another communications network operated by the another service provider (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 4,** Kaplan et al, as modified by Codella et al and Redlich et al method of claim 1, fails to disclose further comprising subcontracting at least some of the requested communications service to the another service provider (Codella et al, Page 4-5, [0047]).

Nonetheless, Codella et al discloses the subcontracting at least some of the requested communications service to the another service provider (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of subcontracting part of service to another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 5,** Kaplan et al, as modified by Codella et al, and Redlich et al discloses the method of claim 2, where the response including at least one of available network routing, available bandwidth, and pricing (Kaplan et al, Col 5, Lines 23-20, Lines 60-67, Col 7 Lines 45-57).

But Kaplan et al fails to disclose the receiving a response from another service provider.

Nonetheless, Codella et al, discloses the receiving a response from another service provider (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 6,** Kaplan et al, as modified by Codella et al, and Redlich et al discloses the method according to claim 1, wherein the best-value scenario comprises ascertaining a lowest-cost scenario for formatting the electronic data according to a characteristic of the client communication device (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49).

Consider **Claim 7**, Kaplan et al, as modified by Codella et al, and Redlich et al discloses the method according to claim1, wherein ascertaining the best-value scenario comprises ascertaining a lowest-cost scenario for providing the communications service (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49).

Consider **Claim 10,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the method according to claim 1, further comprising utilizing the another

communications network operated by the another service provider to provide the

communication service.

Nonetheless, Codella et al discloses utilizing another communications network

operated by another service provider to provide the communication service (Codella et

al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the use of another service provider,

taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the

purpose of enabling redundant, reliable, robust and priority based communications

between multiple service providers and the subscriber.

Consider **Claim 12,** Kaplan et al, as modified by Codella et al and Redlich et al

fails to disclose the method according to claim 1, wherein providing the communications

service comprises utilizing at least one of i) a wireline network operated by the another

service provider and ii) a wireless network operated by the another service provider

Nonetheless, Codella et al discloses the communications service comprises

utilizing at least one of i) a wireline network operated by the another service provider

(Codella et al, Page 4-5, [0047]). and ii) a wireless network operated by the another

service provider (Codella et al, Page 4-5, [0047]).

Nonetheless, the Examiner takes Official Notice that it is notoriously well known in the art of networking, that a network can generally consist and not limited to wireline, wireless, RF network.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 13,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the method according to claim 1, wherein providing the communications service comprises utilizing at least one of i) cellular network operated by the another service provider, ii) and I.E.E.E. 802 wireless network operated by the another service provider, iii) a radio frequency (RF) wireless network operated by the another service provider, iv) an Industrial, Scientific, and Medical (ISM) wireless network operated by the another service provider, and vi) a wireless network operated by the another service provider using another portion of the electromagnetic spectrum.

Nonetheless, Codella et al discloses the communications service comprises utilizing at least one of i) cellular network operated by the another service provider (Codella et al, Page 4-5, [0047]), ii) and I.E.E.E. 802 wireless network operated by the another service provider (Codella et al, Page 4-5, [0047]), iii) a radio frequency (RF) wireless network operated by the another service provider (Codella et al, Page 4-5,

[0047]), iv) an Industrial, Scientific, and Medical (ISM) wireless network operated by the another service provider (Codella et al, Page 4-5, [0047]), and vi) a wireless network operated by the another service provider (Codella et al, Page 4-5, [0047]) using another portion of the electromagnetic spectrum.

Nonetheless, the Examiner takes Official Notice that it is notoriously well known in the art of networking, that a network can generally consist and not limited to wireline, wireless, RF network.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 14**, Kaplan et al discloses a method of providing communication services, comprising: means for receiving a request for communications service (Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3), the request for communications service originating from a client communications device associated with a user, the request for communications service requesting communications service from a service provider (Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3); means for dynamically assessing in real-time an availability of a i) communications network operated by the service provider (Kaplan et al, Col 5, Lines 60-67), the best-value scenario maximizing profitability for the

service provider (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49); and

providing the communications service to fulfill the request, the communications service

provided according to the best-value scenario (Kaplan et al, Col 5, Lines 23-20, Lines

44-49, Col 7 Lines 45-49).

Kaplan et al fails to disclose the means of another communications network

operated by another service provider.

Nonetheless, Codella et al, discloses the means of another communications

network operated by another service provider (Codella et al, Page 4-5, [0047]).

Kaplan et al fails to disclose the means of segmentation, dispersion,

assemblage, and routing of electronic data to fulfill the request.

Nonetheless, Redlich et al discloses the means of segmentation, dispersion,

assemblage, and routing of electronic data to fulfill the request (Redlich et al, Page 22,

[0191], [0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the use of another service provider,

taught by Codella et al, and method of incorporating segmentation, dispersion,

assemblage of electronic data, taught by Redlich et al, in the system of Kaplan et al for

the purpose and means of enabling redundant, reliable, robust and priority based

communications between multiple service providers and the subscriber.

Consider **Claim 15**, Kaplan et al discloses a computer program of providing

communication services, comprising: receiving a request for communications service

(Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3), the request for communications

service originating from a client communications device associated with a user, the

request for communications service requesting communications service from a service

provider (Kaplan et al, Col 2, Lines 64-67, Col 3 Lines 1-3); dynamically assessing in

real-time an availability of a i) communications network operated by the service provider

(Kaplan et al, Col 5, Lines 60-67), the best-value scenario maximizing profitability for the

service provider (Kaplan et al, Col 5, Lines 23-20, Lines 44-49, Col 7 Lines 45-49); and

providing the communications service to fulfill the request, the communications service

provided according to the best-value scenario (Kaplan et al, Col 5, Lines 23-20, Lines

44-49, Col 7 Lines 45-49).

Kaplan et al fails to disclose another communications network operated by

another service provider.

Nonetheless, Codella et al, discloses another communications network operated

by another service provider (Codella et al, Page 4-5, [0047]).

Kaplan et al fails to disclose the segmentation, dispersion, assemblage, and

routing of electronic data to fulfill the request.

Nonetheless, Redlich et al discloses the segmentation, dispersion, assemblage,

and routing of electronic data to fulfill the request (Redlich et al, Page 22, [0191],

[0197]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time

of the invention was made to incorporate the use of another service provider, taught by

Codella et al, and method of incorporating segmentation, dispersion, assemblage of

electronic data, taught by Redlich et al, in the computer program of Kaplan et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 16**, Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the system according to claim 14, further comprising means for interrogating to determine when the another service provider can provide the requested communications service.

Nonetheless, Codella et al, discloses the means for interrogating to determine when another service provider can provide the requested communications service (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 17**, Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the system according to claim 14, further comprising means for subcontracting at least some of the requested communications service to the another service provider.

Nonetheless, Codella et al discloses the subcontracting at least some of the requested communications to the another service provider (Codella et a, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of subcontracting part of service to another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber

Consider **Claim 18,** Kaplan et al, as modified by Codella et al and Redlich et al discloses the system according to claim 14, for response including at least one of available network routing, available bandwidth, and pricing (Kaplan et al, Col 5, Lines 23-20, Lines 60-67, Col 7 Lines 45-57).

But Kaplan et al, fails to disclose the means for receiving a response from another service provider.

Nonetheless, Codella et al discloses disclose the means for receiving a response from another service provider (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the

purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 19,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the computer program product according to claim 15, further comprising instructions for interrogating to determine when the another service provider can provide the requested communication service.

Nonetheless, Codella et al discloses instructions for interrogating to determine when the another service provider can provide the requested communication service (Codella et al, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of communicating to another service provider, taught by Codella et al, in the system of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Consider **Claim 20,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose the computer program product according to claim 15, further comprising instructions for subcontracting at least some of the requested communications service to the another service provider.

Nonetheless, Codella et al discloses the subcontracting at least some of the requested communications to the another service provider (Codella et a, Page 4-5, [0047]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of subcontracting part of service to another service provider, taught by Codella et al, in the computer program of Kaplan et al, as modified by Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Claims **8, 9**, are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kaplan et al (US Patent 6,016,307), in view of Codella et al (US Pub 2004/0221053), in

view of Redlich et al (US Pub 2003/0051054), and in further view of Dan et al (US Pub

2006/0206619).

Consider **Claim 8,** Kaplan et al, as modified by Codella et al and Redlich et al

fails to disclose the method according to claim 1, further comprising accessing a Service

Level Agreement, defining parameters for the communications service request by the

user.

Nonetheless, Dan et al, discloses a Service Level Agreement, defining

parameters for the communications service request by the user (Dan et al, Page 1,

[0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in

the system taught by Kaplan et al, as modified by Codella et al and Redlich et al, for the

purpose of enabling the user to agree to the use of SLA before accessing the provider

for communication service.

Consider **Claim 9,** Kaplan et al, as modified by Codella et al, Redlich et al and

Dan et al disclose the method according to claim 8, wherein ascertaining the best-value

scenario comprises maximizing profitability for the service provider (Kaplan et al, Col 5,

Lines 23-20, Lines 44-49, Col 7 Lines 45-49)

But, Kaplan et al fails to disclose the use of Service level Agreement.

Nonetheless, Dan et al, discloses the use of Service Level Agreement (Dan et al,

Page 1, [0010]).

Therefore it would have been obvious to a person of ordinary skill in the art at the

time of the invention was made to incorporate the use of a SLA, taught by Dan et al, in

the system taught by Kaplan et al, as modified by Codella et al and Redlich et al, for the

purpose of enabling the user/subscriber to agree to the use of SLA before accessing the

provider for higher quality of communication service.

Claims **11**, is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan et al (US Patent 6,016,307), in view of Codella et al (US Pub 2004/0221053), in view of Redlich et al (US Pub 2003/0051054), and in further view of Ofek et al (US Patent 6,385,198).

Consider **Claim 11,** Kaplan et al, as modified by Codella et al and Redlich et al fails to disclose a method according to claim 1, further comprising sending a reservation to reserve a routing path.

Nonetheless, Ofek et al, discloses sending a reservation to reserve a routing path (Ofek et al, Col 6, Lines 23-30, 50-56).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of reservation routing, taught by Ofek et al, in the method of Kaplan et al, as modified by Codella et al and Redlich et al for the purpose of enabling redundant, reliable, robust and priority based communications between multiple service providers and the subscriber.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Sikri whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri

a.s.

August 3, 2007

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